

File Number  
CPA01-069-01

Application Type  
Conditional Use Permit Amendment

Council District:    3

Planning Area  
Central

Assessor's Parcel Number(s)  
467-41-079

STAFF REPORT

PROJECT DESCRIPTION      Completed by: John Davidson

Location:    southeast corner of S. Eleventh and E. San Carlos Streets

Gross Acreage:    0.14      Net Acreage:    0.14      Net Density:    8 DU/AC

Existing Zoning:    CN Commercial      Existing Use: Office

Proposed Zoning:    No Change      Proposed Use: 160 square foot expansion of a previously approved residential unit in an approved mixed-use project.

GENERAL PLAN      Completed by: JED

Land Use/Transportation Diagram Designation  
Mixed Use with no Underlying Land Use Designation      Project Conformance:  
[x] Yes    [ ] No  
[x] See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING      Completed by: JED

North:      Retail Commercial      CN Commercial

East:      Residential      R-1-8 Single-Family Residence

South:      Residential      CN Commercial

West:      Office      CN Commercial

ENVIRONMENTAL STATUS      Completed by: JED

[ ] Environmental Impact Report      [x] Exempt  
[ ] Negative Declaration circulated on      [ ] Environmental Review Incomplete  
[ ] Negative Declaration

FILE HISTORY      Completed by: JED

Annexation Title: Original City      Date: March 27,1850

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

[ x ] Approval      Date:      Approved by: \_\_\_\_\_  
[ ] Approval with Conditions      [ ] Action  
[ ] Denial      [ ] Recommendation  
[ ] Uphold Director's Decision

APPLICANT/OWNER

SN300 Partnership  
Attn: Marianne and Carl Salas  
305 S. 11<sup>th</sup> Street  
San Jose, CA 95112

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: John Davidson

Department of Public Works

None received.

Other Departments and Agencies

See conditions of approval.

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**GENERAL CORRESPONDENCE**

None received.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

This request is for a Conditional Use Permit to allow a 160 sq. ft. addition to a proposed residential unit in an approved mixed-use project on a 0.14-gross acre site in the CN Commercial Zoning District.

The applicant has previously received a Conditional Use Permit to operate a 1,600 sq.ft. commercial office on the ground floor and construct a single residential unit on the second floor of an existing residence. The office is accessed from an entrance facing S. Eleventh Street and another at the rear of the structure facing the parking lot. The upstairs dwelling unit, designed as a one-bedroom apartment, is accessed from a stair at the rear of the structure. The proposed changes would result in a larger dormer on the eastern elevation. The mixed-use arrangement requires a Conditional Use Permit in the CN Commercial Zoning District, which the applicant obtained in May, 2002. The existing structure appears to date from the turn of the century, and exhibits substantial architectural character. It is currently on the City of San Jose's Historic Resources Inventory as a part of the Naglee Park Conservation Area.

Surrounding uses include retail commercial to the north, offices to the west, and residential uses to the south and east.

**ENVIRONMENTAL REVIEW**

The project was found to be exempt from environmental review under Section 15301(a) of the CEQA Guidelines, which exempts small additions to existing facilities.

**GENERAL PLAN CONFORMANCE**

The proposal is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Mixed Use with no Underlying Land Use Designation, which states that, "A minimum of two uses must be combined to use this designation with no use occupying less than 10% of the site area or less than 10% of the total square footage of the building square footage proposed." The uses and intensity

ranges allowed for sites with this designation are listed in Appendix F, MU #6 of the General Plan. The use mix section of the Mixed Use Inventory calls for any combination of Office (up to 7,000 sq.ft.) and Medium High Density Residential (12-25 d.u./ac, or up to 6 units). The use includes residential housing at a density of 8 dwelling units to the acre. Even though the proposed unit density is lower than the density contemplated in the General Plan, it is considered consistent because the proposal meets the residential use intensity requirements in terms of numbers of units.

## **PUBLIC OUTREACH**

Public Notices of the Planning Commission hearing on the Conditional Use Permit were mailed to area residents and owners of property with 500 feet of the subject site. Staff has been available to discuss the project with the public.

## **ANALYSIS**

The primary issues associated with this project are conformance with the Secretary of the Interior's Standards for Historic Renovation, given that this project is in the Naglee Park Conservation Area.

### ***Conformance with the Secretary of the Interior's Standards for Historic Rehabilitation***

The applicant is proposing to add a 160 square-foot addition to an existing residential structure in order to increase the living area of the proposed upstairs residential unit. The proposed project is located in the Naglee Park Conservation Area, and the building at 300 S. Eleventh Street is listed as an Identified Structure on the City's Historic Resources Inventory. As such, new additions to the building are analyzed for conformance with the Secretary of the Interior's Standards for Historic Rehabilitation. These standards, published by the Secretary of the Interior of the United States, are a list of widely accepted guidelines for the treatment of historic properties. Out of the ten guidelines for historic rehabilitation, numbers 9 and 10 are the most applicable to this proposal. These two standards state:

1. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
2. New additions and adjacent or related new construction will be undertaken in a such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Regarding Standard #9, the proposed project will not destroy historic materials, features and spatial relationships that characterize the property. Existing materials and features, except for the area of the addition, will remain intact. The dormer addition is to the rear elevation of the property and will not be visible from S. Eleventh Street. The new work will be compatible with the historic materials, using wood siding, windows, trim material, and asphalt shingles. The new work will be differentiated from the existing by using a simpler window pattern on the new dormer, with two panes over one as opposed to the three over one pattern used on the front elevation. The new addition will also be differentiated by painting the addition a different shade of green from the original construction.

Regarding Standard #10, the new dormer is being added in such a way that it could be removed in the future and the essential form would be intact. The roof could be repaired and the existing dormer could be rebuilt without otherwise affecting the integrity of the house.

Staff finds that the addition as proposed meets the Secretary of the Interior's Standards for Historic Rehabilitation.

### ***Conclusion***

Based on the above analysis, staff concludes that the proposed Conditional Use Permit Amendment, as conditioned, would allow a compatible addition with the existing structure. The proposed addition to the previously approved mixed-use project is consistent with the site's General Plan Land Use designation, and allowed in the CN Commercial Zoning District.

### **RECOMMENDATION**

Planning Staff recommends that the Planning Commission approve the Conditional Use Permit Amendment and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Mixed Use with no Underlying Land Use Designation on the adopted San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The Mixed Use Designation allows an intensity of use up to 7,000 sq.ft. of commercial space and 6 dwelling units, or any combination.
3. The 0.14 acre site is located in the CN Commercial Zoning District.
4. The project site is developed with a residential structure currently used as conforming office in the CN Commercial Zoning District.
5. The project proposes a 160 square foot addition to the residential space of a previously approved mixed-use project.
6. The proposed exterior changes meet the Secretary of the interior's Standards for Historic Rehabilitation.
7. Under the provisions of Section 15301(a) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
8. The site is surrounded on the north and west by retail commercial uses, on the east and south by residential uses and on the west by a campus ministry.

The Planning Commission concludes and finds based on an analysis of the above facts that:

1. The proposed project is consistent with the San Jose 2020 General Plan Land/Use Transportation Diagram designation of Mixed Use with no Underlying Land Use Designation.
2. The proposed project is in compliance with the requirements of the California Environmental Quality Act.
3. The proposed addition is in conformance with the Secretary of the Interior's Standards for Historic Rehabilitation.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

## CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

## CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions

throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Conformance with Plans.** Construction and development shall conform to approved Planned Development Plans entitled, "Conditional Use Permit Work, 300 S. 11<sup>th</sup> Street" dated August 17, 2001, last revised December 20, 2002 on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
4. **Sign Approval.** One freestanding sign, as shown in the plans, is approved as a part of this Conditional Use Permit Amendment.
5. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, CPA 01-069-01, shall be printed on all construction plans submitted to the Building Division.
  - b. *Americans With Disabilities Act.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
  - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - d. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
6. **Anti-Graffiti.** The applicant shall remove all graffiti from the screen wall surfaces within 48 hours of

defacement.

7. **Allowed Uses.** Use of the second story of the mixed-use building shall be limited to one residential unit as shown on the project plans. Use of the first floor of the mixed-use building shall be limited to Commercial Office space. Conversion to uses other than those specifically identified above, whether they are permitted or conditional pursuant Title 20 of the Municipal Code, shall require additional permits as determined necessary by the Director of Planning.
8. **Previous Conditions.** All of the conditions of the previously approved Conditional Use Permit File No. CP01-08-069 shall remain unchanged and in full force and effect unless such conditions are specifically modified or deleted in this Amendment.

## CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.